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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,557	09/19/2003	Kevin McMains	LGPL.104360	4596
5251 7590 06/18/2007 SHOOK, HARDY & BACON LLP INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BLVD KANSAS CITY, MO 64108-2613			EXAMINER LE, TAN	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 06/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/664,557

Applicant(s)

MCMAINS, KEVIN

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-21 and 23-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 8-20 is/are allowed.
- 6) ☒ Claim(s) 21 and 23-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's reply filed 12/13/06 is acknowledged. Claims 1-6 and 8-39 are pending. Claim 7 has been canceled. Claims 7 and 22 have been canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 recites the limitation "said stop plate" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21, 23-25 and 33-34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,772,985 to Lee.

Claims 21 and 23 read on Lee as follows: Lee discloses an adjustment mechanism (Figs. 1-5) comprising: a first plate (53) (see attached figure) adapted to be coupled to a bottom surface of the seat; a second plate (52) adapted to be coupled to an upper surface of the tilt control mechanism, said second plate being slidably coupled to said first plate such that said first and second plates can move relative to one another along the longitudinal axis of the seat; a spacer (58) (also col. 3, lines 61-65), said spacer positioned between said first and second plates for facilitating relative sliding movement therebetween, wherein said first and second plates cooperate to provide a means for selectively adjusting the seat along the longitudinal axis thereof; and a U-shaped lever (71), said U-shaped lever containing a first mating portion (62) adapted to be releasably received in a recess (73) located in the first plate and a second mating portion (75) including a projection adapted to be releasably received in a plurality of notches (63) located on the second plate wherein said U-shaped lever is operable to selectively engage the second mating portion and a selected one of said notches and is operable to selectively release the second mating portion from the selected one of said notches to allow the first plate to move relative to the second plate.

As to claim 24, wherein an intermediate portion (58) is positioned between said first, and second plates for facilitating relative sliding movement there between.

As to claim 25, although the intermediate element is not structurally integral with a bottom surface of the first plate, the second plate, or both, but since the intermediate portion, the first plate and the second plate are rigidly secured and hence are integral in functional sense. Note that the term integral is not necessarily restricted to one-piece

article. In re Kohno (CCPA) 157 USPQ 275. The term integral is sufficient broad to embrace constructions united by such means as fastening and welding. In re Hotte (CCPA) 177 USPQ 326.

As to claim 33, wherein the first plate includes a second recess (78, for example)

As to claim 34, wherein the mating portion includes first (62) and second mating portions (65, 79, 80), the first and second mating portions adapted to be releasably received in the first (73) and second recesses (78).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee.

As to claim 35, Lee discloses the first (68) and second recess (78) generally rectangular in shape but with round ends. Applicants however, has not discloses that having the recesses with rectangular in shape solves any particular problem or is for any particular purpose. Moreover, it appears that the recesses having rectangular with round ends would perform equally well with the recesses having exactly rectangular without round ends in shape. Accordingly, the use of rectangular in shape is deemed to be a design consideration, which fails to patentably distinguish over the prior art of Lee.

Lee also appears to disclose the first (73) and second recesses (78) located at a midpoint of the first plate.

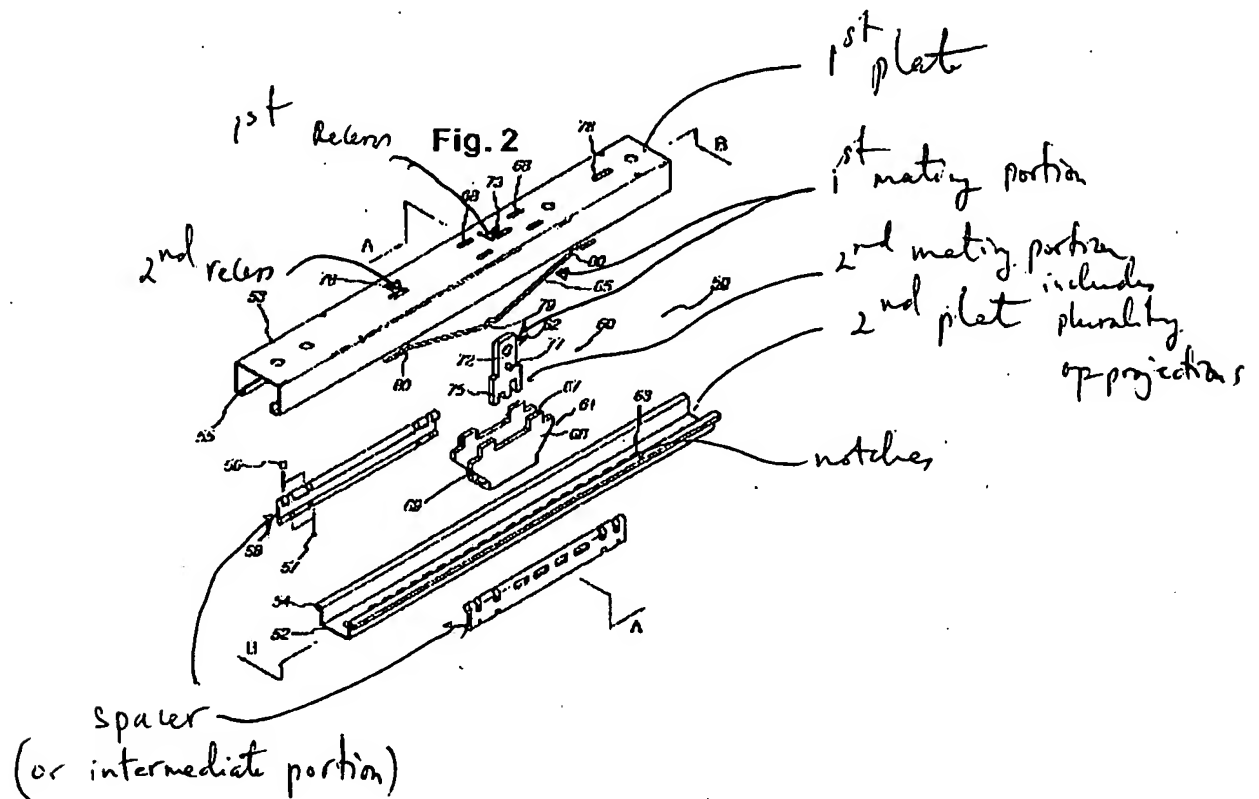
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As to claim 36, wherein the second plate contains a second set of notches. Note that the examiner considers a portion of notches extending along the bottom of second plate is a second set.

As to claim 37, wherein the mating projection includes first and second mating projections (see attached figure), the projections being adapted to be releasably received in the first and second set of notches.

As to claim 38, where said first and second mating projections includes a plurality of projections (75).

As to claim 39, wherein said first and second set of notches are integrally formed with said second plate.



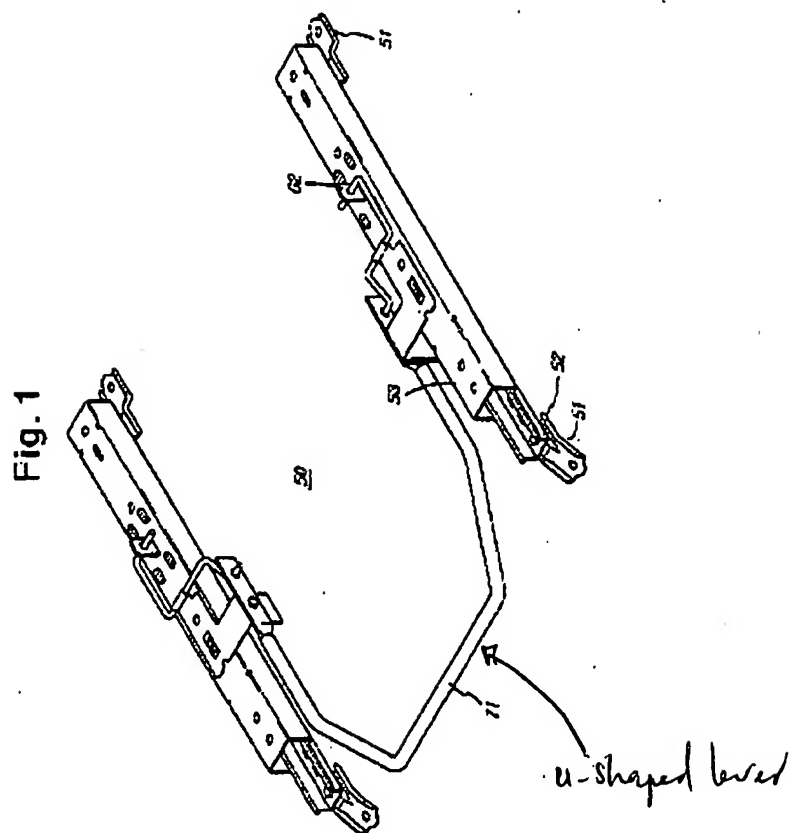
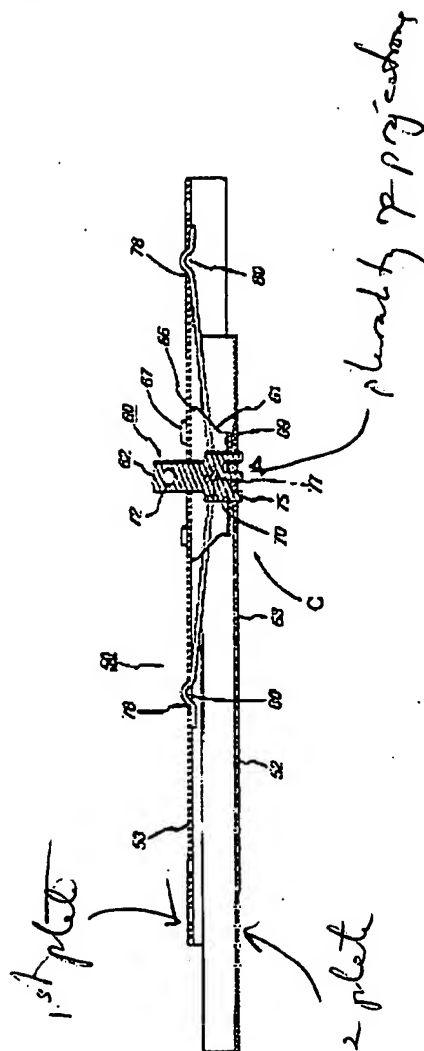


Fig. 4



Allowable Subject Matter

Claims 26-32 are rejected but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 1-6 and 8-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter of claim 1: Although prior art discloses a plurality of horizontal adjustment mechanisms having first and second plates, it fails to disclose or suggest the second plate having a plurality of positioning holes arranged in a predetermined pattern wherein the holes positioned to align with the opening in the first plate, in combination with other limitations recited in the claim 1, which is not found to anticipate or render the claim obvious.

Response to Arguments

Applicant's arguments with respect to claim 21 has been considered but are moot in view of the new ground of rejection. The new ground of rejection is necessitated by the amendment, which introduces an *U-shaped* lever as presented in independent claim 21.

Newly added claims 23-39 also introduced an U-shaped lever along with other limitations, which also necessitated a new ground of rejection.

With respect to claims 1-6 and 8-21, independent claim 1 has been rewritten to incorporate the allowable subject matter of claim 7. Claims 1-6 and 8-21 are therefore allowed.

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Monday through Friday from 9:AM-6PM..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tan Le
February 22, 2007



Carl D. Friedman
Supervisory Patent Examiner
Group 3600